

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/088,484	SAKAI ET AL.	
	Examiner Dah-Wei D. Yuan	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 10/7/05.
2.  The allowed claim(s) is/are 1,2 and 6-11.
3.  The drawings filed on 20 March 2002 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 10072005
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**POLYMER ELECTROLYTE FUEL CELL AND METHOD**  
**FOR PRODUCING THE SAME**

Examiner: Yuan      S.N. 10/088,484      Art Unit: 1745      December 7, 2005

**Detailed Action**

1. The Information Disclosure Statement filed on October 7, 2005 was received.
  
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action issued on September 21, 2004.

*Examiner's Amendment*

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
  
4. Authorization for this examiner's amendment was given in a telephone interview with Mr. Daniel Bucca on March 24, 2005. The application has been amended as follows:  
Please insert the following text as the first paragraph of the present application:

Related Applications

This application claims benefit to PCT International Patent Application No. PCT/JP00/06451, filed on 20 September 2000.

***Claim Rejections***

5. The claim rejections under 35 U.S.C. 112, first paragraph, on claims 1,2,4-11 are withdrawn because independent claim 4 has been canceled and support for independent claim 1 can be found in the instant disclosure page 8, lines 24-25.

***Reasons for Allowance***

6. Claims 1,2,6-11 are allowed. The invention of independent claim 1 recites a polymer electrolyte fuel cell comprising a polymer electrolyte membrane, an anode and a cathode, wherein anode and cathode comprise a gas diffusion layer and a catalyst layer, which has catalyst particles and a hydrogen ion conductive polymer electrolyte. The amount of hydrogen ion conductive polymer electrolyte in the catalyst layer is large at the side of the hydrogen ion conductive polymer electrolyte membrane and is small at the side of the gas diffusion layer and the amounts of the hydrogen ion conductive polymer electrolyte varies seamlessly in a thickness direction of the anode or the cathode. The closest prior art of record, Tomoyuki et al., does not teach or suggest the amount of hydrogen ion conductive polymer electrolyte varies seamlessly in the thickness direction of the electrode.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei D. Yuan whose telephone number is (571) 272-1295. The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dah-Wei D. Yuan  
December 7, 2005



DAH-WEI YUAN  
PRIMARY EXAMINER